

§ 301.76-6

7 CFR Ch. III (1-1-13 Edition)

(3) Is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the article.

(c) Certificates and limited permits for the interstate movement of a regulated article may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article after he or she has determined that the article is eligible for a certificate in accordance with paragraph (a) of this section and all other relevant conditions of this subpart. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article after he or she has determined that the article is eligible for a limited permit in accordance with paragraph (b) of this section and all other relevant conditions of this subpart.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or limited permit has not complied with all of the provisions in this subpart or has not complied with all the conditions contained in the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as soon as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(e) Unless specific provisions exist in § 301.76-6 or § 301.76-7 of this subpart to allow the interstate movement of a certain regulated article, the inter-

state movement of that article is prohibited.

(Approved by the Office of Management and Budget under control number 0579-0363)

§ 301.76-6 Additional conditions for issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for Asian citrus psyllid, but not for citrus greening.

(a) *Additional conditions for issuance of a certificate; any regulated article.* In addition to the general conditions for issuance of a certificate contained in § 301.76-5(a), an inspector or person operating under a compliance agreement may issue a certificate for the interstate movement of any regulated article to any State if:

(1) The article is treated with methyl bromide³ in accordance with 7 CFR part 305 of this chapter.

(2) The article is shipped in a container that has been sealed with an agricultural seal placed by an inspector.

(3) The container that will be moved interstate is clearly labeled with the certificate.

(4) A copy of the certificate will be attached to the consignee's copy of the accompanying waybill.

(b) *Additional conditions for issuance of a certificate; regulated nursery stock.* In addition to the general conditions for issuance of a certificate contained in § 301.76-5(a), an inspector or person operating under a compliance agreement may issue a certificate for interstate movement of regulated nursery stock to any State if:

(1) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in a PPQ protocol document. The protocol document will be provided to the person at the time he or she enters into the compliance

³EPA and State and local environmental authorities may restrict the use of methyl bromide on certain articles.

agreement.⁴ The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the spread of Asian citrus psyllid under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will also specify that APHIS may amend the agreement.

(2) An inspector determines that the nursery has adhered to all terms and conditions of the compliance agreement.

(3) The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container.

(4) A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

(c) *Additional conditions for issuance of a limited permit; regulated nursery stock.*

(1) *Nursery stock that will not be moved through American Samoa, Arizona, California, Florida, Guam, Hawaii, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.* In addition to the general conditions for the issuance of a limited permit contained in § 301.76-5(b), an inspector or person operating under a compliance agreement, other than the operator of the nursery in which the nursery stock was produced and his or her employees, may issue a limited permit for the interstate movement of regulated nursery stock through areas of the United States other than American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands, and to areas of the United States other than Northern Mariana Islands and those portions of Arizona and California that are not quarantined due to the presence of Asian citrus psyllid or citrus greening, if:

(i) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in accordance with § 301.76-8;

(ii) All citrus nursery stock at the nursery has been inspected by an inspector every 30 days, and any findings of Asian citrus psyllid during an inspection have been reported to APHIS immediately;

(iii) The nursery stock is treated for Asian citrus psyllid with an APHIS-approved soil drench or in-ground granular application no more than 90 days and no fewer than 30 days before shipment, followed by an APHIS-approved foliar spray no more than 10 days before shipment. All treatments must be applied according to their EPA label, including directions on application, restrictions on place of application and other restrictions, and precautions, and including statements pertaining to Worker Protection Standards;

(iv) The nursery stock is affixed prior to movement with a plastic or metal tag on which the statement "Limited permit: USDA-APHIS-PPQ. Not for distribution in those portions of AZ and CA not quarantined due to the presence of Asian citrus psyllid or citrus greening" is prominently and legibly displayed on the obverse, and adequate information as determined by APHIS regarding the identity of the nursery stock and its source of production to conduct traceback to the nursery in which the nursery stock was produced is prominently and legibly printed on the reverse. If the nursery stock is destined for movement or sale in boxes or containers, the statement and the identifying information may be printed on the box or container, or printed on a label permanently affixed to the box or container, provided that, in either case, the statement and the identifying information are prominently and legibly displayed;

(v) A copy of the limited permit will be attached to the consignee's copy of the accompanying waybill; and

(vi) The nursery stock is shipped in accordance with the conditions specified on the limited permit to the destination specified on the permit.

(2) *Nursery stock that will be moved through American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands,*

⁴The protocol document is also available on the Internet at http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml and may be obtained from local Plant Protection and Quarantine offices, which are listed in telephone directories.

Puerto Rico, Texas, or the U.S. Virgin Islands. In addition to the general conditions for the issuance of a limited permit contained in § 301.76-5(b), an inspector or person operating under a compliance agreement may issue a permit for the interstate movement of regulated nursery stock through American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands, and to areas of the United States other than Northern Mariana Islands or those portions of Arizona and California that are not quarantined due to the presence of Asian citrus psyllid or citrus greening, if:

- (i) All conditions for movement of regulated nursery stock in paragraphs (c)(1)(i) through (c)(1)(vi) of this section are fulfilled;
- (ii) The nursery stock is inspected by an inspector on the date of shipment and found free of Asian citrus psyllid;
- (iii) The nursery stock is completely enclosed in a container sealed with an agricultural seal and is moved interstate in that container;
- (iv) The container prominently and legibly displays the statement and identifying information specified in paragraph (c)(1)(iv) of this section;
- (v) The agricultural seal remains intact throughout movement to the destination specified on the limited permit; and
- (vi) The agricultural seal is removed at the destination specified on the limited permit by an inspector.

(d) *Additional conditions for issuance of a limited permit; regulated articles intended for consumption, as apparel or as a similar personal accessory, or for other decorative use.*⁵ In addition to the general conditions for issuance of a limited permit contained in § 301.76-5(b), an inspector or person operating under a compliance agreement may issue a limited permit for the interstate movement of regulated articles intended for consumption, as apparel or as a similar personal accessory, or for other decorative use if:

⁵Examples of such articles include *Bergera* (= *Murraya*) *koenigii* leaves, as well as *Murraya paniculata* flowers or foliage.

(1) The articles are treated with irradiation in accordance with 7 CFR part 305 of this chapter at an irradiation facility that is not located in an area quarantined for citrus greening.

(2) The container that will be used to move the articles interstate is clearly labeled with the limited permit, which must contain the name of the State or portion of a State where the articles were produced and a statement that the articles were treated in accordance with 7 CFR part 305 of this chapter.

(3) A copy of the limited permit is attached to the consignee's copy of the accompanying waybill.

(Approved by the Office of Management and Budget under control number 0579-0369)

[75 FR 34332, June 17, 2010, as amended at 76 FR 23457, Apr. 27, 2011; 77 FR 59712, Oct. 1, 2012]

§ 301.76-7 Additional conditions for issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for citrus greening.

(a) *Additional conditions for the issuance of a certificate; regulated nursery stock produced within a nursery located in the quarantined area.* In addition to the general conditions for issuance of a certificate contained in § 301.76-5(a), an inspector or person operating under a compliance agreement may issue a certificate for interstate movement of regulated nursery stock to any State if all of the following conditions are met:

(1) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in a PPQ protocol document. The protocol document will be provided to the person at the time he or she enters into the compliance agreement.⁶ The compliance agreement

⁶The protocol document is also available on the Internet at http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml and may be obtained from local Plant Protection and Quarantine offices, which are listed in telephone directories.